

From: James Button
To: Microsoft ATR
Date: 1/1/02 10:09am
Subject: Microsoft Settlement

Sirs,

I believe that any settlement addressing a companies monopolistic and/or anti-competitive actions should fulfil at least 1, and preferably all of the following::

- 1) Financial restitution to the actual, and prospective 'competing' organisations for the damage already inflicted.
- 2) Financial restitution to the actual, and prospective 'competing' organisations for the loss of future profitability.
- 3) Financial restitution to the actual, and prospective 'customers' for the probable inflated costs due to lack of availability of products from alternative sources.
- 4) Enforcement of 'proper' business practices in the future.
- 5) Require the offender to ensue that the products they are currently supplying are brought up to the standard that would have been required to achieve their current dominant status if they had been competing in a 'fair' marketplace

In the case of Microsoft, I as a user suffer because Microsoft OS and Office products have become the 'defacto' standard in industry.

My organisation also has to (at our expense) have somebody regularly monitor the internet and PC systems for 'security' gaps, and ensure that the holes found are addressed

In order to interact with business peers, and maintain the business's employability the organisation is forced to purchase the new releases of Microsoft products (with the required hardware upgrades). This being essential due to the Microsoft policy of discontinuing support for old versions.
(To date about \$1000 per PC system directly attributable to business compatibility upgrades).

While I accept that providing substantial assistance to educational establishments may form part of a 'penalty' that does nothing to provide restitution to the prior purchasers of their products, nor does it actually impose a real penalty on the organisation unless that organisation is inhibited from adjusting their prices and marketing to recover that cost from their customers.

If they are allowed to include their own products in costs of their penalty, they can simply ship 10,000 CD'sets at a quoted \$500 each (\$5,000,000 billed for \$2,500 worth of media) and site licences of 20 accompanying each CD set (accounted for @ say \$5 per user = \$10,000,000).

Not only does such an approach increase their dominance in the market, as businesses will have a greater incentive to use their products because their new employees will have already, at an education cost billed to the public purse/wallet, gained experience in the offenders products, but also opens an opportunity to charge for increases in the licensing (to say 100 users per CD set @ say \$4 per user) giving profits of \$4 x 80 x 10,000 = \$3,200,000 -

Booked cost of the action = \$15,000,000, at a net cost of \$2,500 minus \$3,200.000 = ??

Considering the above:

I feel that any settlement allowing the offender's products to be promoted is greatly flawed.

I also believe that the proposed settlement will actually increase Microsoft's dominance, at the expense of the US taxpayer, businesses, but also to the detriment of PC users throughout the world.

J.B.C.S. Limited. (a UK company)